

A-3316-98T4

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION - FAMILY PART  
UNION COUNTY  
DOCKET NO. FJ-20-1786-96  
APP. DIV. NO.

STATE OF NEW JERSEY in the  
Interest of  
M. M.

A 3316-98T4

TRANSCRIPT

OF

WAIVER MOTION

APR 27 1999

Place: Union County Courthouse  
2 Broad Street  
Elizabeth, New Jersey

Date: October 10, 1996  
Volume 1 of 2

B E F O R E:

HONORABLE RUDOLPH N. HAWKINS, JR., J.S.C.

TRANSCRIPT ORDERED BY:

DEBORAH C. COLLINS, ESQ., (Public Defender)

A P P E A R A N C E S:

SUSAN M. MAC MULLAN, ESQ.,  
Assistant Prosecutor  
Attorney for the State

WALTER FLORCZAK, ESQ., (Walter Florczak Esq.)  
Attorney for the Juvenile

REC'D  
APPELLATE DIVISION

APR 27 1999

APR 27 1999

Audio Recorded By: G. Plummer

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Colloquy

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1 THE COURT: All right, counsel, let me have your  
2 appearance.

3 MS. MAC MULLAN: Morning, Your Honor, Susan MacMullan  
4 for the State.

5 MR. FLORCZAK: Walter Florczak appearing for the  
6 juvenile, Marvin Mathis.

7 THE COURT: This matter is captioned State of New  
8 Jersey in the Interest of Marvin Mathis.

9 Marvin lives in Elizabeth at 538 Magnolia Avenue.  
10 His date of birth is March twenty third, 1980. He's 16 years  
11 of age.

12 On the third of March, 1996, at a time in which he  
13 was 15 years of age, he was charged with a -- oops, wrong  
14 complaint. I knew I'm not waiving simple assault.

15 January twenty second, 1996, he's charged with  
16 participating in an armed robbery, among other things.

17 This morning is the return date for a, on a Motion by  
18 the prosecutor to waive this young man -- oh, there's a  
19 homicide involved, is that right?

20 MS. MAC MULLAN: Felony murder he's charged with.

21 THE COURT: Okay. To waive this young man to the  
22 adult Court for trial.

23 Ms. MacMullan, I understand you and Mr. Florczak may  
24 have entered into several stipulations?

25 MS. MAC MULLAN: Yes, sir, we have. Prior to coming

## Colloquy

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1 to Court this morning, Your Honor, Mr. Florczak and I have  
2 negotiated a list of items which are both, which are stipulated  
3 to both by the defense and the State in this case for your  
4 review, that if these witnesses were to testify this is what  
5 their testimony would be.

6 I took the liberty, Your Honor, to prepare a binder  
7 for you with a cover letter itemizing each item for your  
8 review. I understand from speaking with Mr. Walter Florczak,  
9 he may have additional items for your review but that's not  
10 definite yet.

11 But if I could, Your Honor, I'd like to approach and  
12 just give you what we have for you.

13 THE COURT: Mr. Florczak, is this within your binder?

14 MR. FLORCZAK: Yes, I've gone through the binder and  
15 I have a copy of the cover letter and I obviously have all the  
16 materials that are in it.

17 THE COURT: So you have no objections for me.

18 MR. FLORCZAK: I have no objection.

19 THE COURT: Okay.

20 MS. MAC MULLAN: With that, Your Honor, the State --

21 THE COURT: Great weekend reading here.

22 MS. MAC MULLAN: Well the binder's thicker than the  
23 documents.

24 But when His Honor has a chance to review those  
25 documents, and there's quite a few, the State would, and the

## Colloquy

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1 defense, would respectfully request the opportunity to, for  
2 oral argument.

3 THE COURT: To be heard. Absolutely. Mr.  
4 Florczak?

5 MR. FLORCZAK: Yes. The only additional thing,  
6 Judge, is I anticipate two brief reports, one from a Gregory  
7 Eckels (phonetic) of D.O.C. or whether it's Juvenile Justice  
8 Commission now, I'm not sure, and from the Youth House as to  
9 perhaps a report on his nine months, eight months in the Youth  
10 House.

11 Other than that, there'd be no additional material.

12 THE COURT: Mr. Eckels from time to time has posed  
13 somewhat of a, I guess, logistics problem. He has not been  
14 that responsive with some of our attorneys I know in terms of  
15 submitting a report. Do you have -- have you been in touch  
16 with him?

17 MR. FLORCZAK: Yes, my investigator has, Judge, spoke  
18 to him Monday of this -- I think it was Monday or Friday.

19 THE COURT: When do you anticipate a report from him?

20 MR. FLORCZAK: I hope to have it before the end of  
21 the week, Judge.

22 THE COURT: Fine, that's tomorrow. End of this week.

23 MR. FLORCZAK: Or by Monday at least. He indicated  
24 he has interviewed my client quite a while ago and there's no,  
25 and he has notes at home which he's supposed to go over and

Colloquy

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1 just give me a quick report.

2 THE COURT: All right, get those reports for me as  
3 quickly as you can --

4 MR. FLORCZAK: I will, Judge.

5 THE COURT: -- so that I can, so I can move this as --  
6 - once I've gotten everybody's report, since I can start the  
7 State's now and read their reports --

8 MR. FLORCZAK: I would note mine are also in there.  
9 In other words --

10 THE COURT: Oh, you have some in there?

11 MR. FLORCZAK: Everything.

12 THE COURT: You just have some additional.

13 MR. FLORCZAK: Right, in other words I submitted the  
14 psychological evaluation --

15 THE COURT: Dr. Page.

16 MR. FLORCZAK: -- and I believe interviews with four  
17 teachers which they have corresponding interviews and they  
18 would be my v sses. So it's just two additional reports.  
19 Hopefully I can submit them by Monday.

20 THE COURT: Okay. That means I can start pouring  
21 over this immediately because I would like to move these cases  
22 as, as quickly as we possibly can. And then I'll notify the  
23 both of you as soon as I, as soon as I've been able to go over  
24 everything that you presented plus what you intend to present.  
25 And you can come back for oral argument, okay?

Colloquy

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1 MR. FLORCZAK: Judge, yes, and we are asking the  
2 Court to consider, you know, based on the Court's schedule,  
3 whether next, a week from tomorrow is possible. It may be too  
4 soon but --

5 THE COURT: Like I said, no, it's not too soon, if  
6 you get me what I need, it will not be too soon to have oral  
7 argument next week. Okay?

8 MR. FLORCZAK: Well by Monday, Judge, I hope to  
9 either give you the report or tell you it's not forthcoming and  
10 it won't be needed.

11 THE COURT: Very well. Meantime we'll stand  
12 adjourned.

13 MS. MAC MULLAN: Yes, sir.

14 MR. FLORCZAK: Thank you.

15 THE COURT: Thank you.

16 MS. MAC MULLAN: Thank you very much, Your Honor.

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CERTIFICATION

I, DOROTHY A. MIRAGLIOTTA, the assigned transcriber, do hereby certify that the foregoing transcript of proceedings in Union County Superior Court, Family Part, on October 10, 1996, on Tape Number 1, Index 0263 - 0435, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate non-compressed transcript of the proceedings as recorded to the best of my knowledge and ability.

Dorothy A. Miragliotta  
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Dated: 4/14/99